

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRUCE MEYERS; KALLIE
ROESNER-MEYERS and
EUGENIA CALOCASSIDES,

Case No. 17-cv-10623
Hon. Denise Page Hood
Mag. Judge David R. Grand

Plaintiffs,

v

VILLAGE OF OXFORD, a Michigan home-rule
village, JOE YOUNG, in his personal and official
capacity as Village Manager of the Village of
Oxford; SUE BOSSARDET, in her personal and
official capacity as President of the Village of Oxford;
and MICHAEL SOLWOLD, in his official capacity
only as the Acting Police Chief of the Village of Oxford;
ROBERT CHARLES DAVIS, in his personal and official
capacity as an administrative officer (Village Attorney)
of the Village of Oxford,

Defendants.

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DEFENDANTS' RESPONSE IN OPPOSITION TO
PLAINTIFFS' MOTION TO REQUIRE PARTICIPATION OF
ALL MEMBERS OF THE VILLAGE COUNCIL AT
SETTLEMENT CONFERENCE OR GRANT SUCH
ALTERNATIVE RELIEF AS PROPOSED

INDEX OF AUTHORITIES

Case

Booth v. University of Michigan Board of Regents, 444 Mich 211,
229-30, 507 NW2d 422, 429-31 (2011)2

Statutes

MCL 15. 262(a).....1
MCL 15.263(1)1
MCL 15.263(2)1
MCL 15.268(a-j)2
MCL 15.268(e, h).....2
MCL 15.2722
MCL 15.2732

Despite Plaintiffs' allegations indicating otherwise, the Village intends to provide vital components of its municipal structure at the October 23, 2019 continued Settlement Conference with Magistrate Grand. Specifically, the Village Council President, Joe Frost, Village Manager, Joe Madore, and Village Attorney Robert Davis will attend the Settlement Conference. Furthermore, the Village Council provided undersigned defense counsel authority to resolve the matter pursuant to the terms discussed in the closed session on July 11, 2019. Simply put, the Village participants have explicit authority to resolve the lawsuit at the Settlement Conference.

Moreover, Plaintiffs' request to require the attendance of the entire Village Council and require them to make a final decision at the Settlement Conference would violate state law. In particular, the Open Meetings Act ("OMA"), clearly requires the Village Council to conduct all deliberations and make any decisions regarding the Village in an open meeting. MCL 15.262(a) and MCL 15.263(1). Additionally, unlike the closed structure of a settlement conference during pending litigation, the Village Council must conduct its meetings in a place "available to the general public." MCL 15.263(1) and (2).

Most importantly, Plaintiffs' proposal does not fit within the OMA's limited exceptions to its public deliberation and decision requirement. Particularly, Plaintiffs' request for the Village Council to make a decision outside of its

previously provided settlement authority has nothing to do with an employee's job status/performance evaluation; a student's status a public school; negotiation of a collective bargaining agreement and/or the purchase of property; employee interviews. MCL 15.268(a-j). Also, while the OMA allows the Village Council to discuss attorney client privileged material and/or litigation in closed session, it still must make any final decisions regarding the privileged discussions in an open, public meeting. MCL 15.268(e, h) and *Booth v. University of Michigan Board of Regents*, 444 Mich 211, 229-30, 507 NW2d 422, 429-31 (2011). Therefore, Plaintiffs' request for the Village Council to enter into a binding agreement on the record should the parties resolve the case at the settlement conference would be illegal and/or expose the Village to civil liability. MCL 15.272 and 15.273.

In order to adhere to state law, the Village Council requests that the Court accept the proposed Village representatives for the October 23, 2019 Settlement Conference. If the parties agree to terms during the Settlement Conference beyond the current authority granted to defense counsel, undersigned counsel will state on the record that the Village accepts the proposed terms in principle and defense counsel will present and recommend final approval to the full Village Council during a scheduled meeting regarding the matter.

RELIEF REQUESTED

WHEREFORE, the Village Defendants request that the Court deny Plaintiffs' Motion and provide the relief requested in this Response.

Respectfully submitted,

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& AMTSBUECHLER PC

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Dated: October 16, 2019

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2019, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all parties of record.

s/ Paula M. Rosenthal